Supreme Court, U.S.
FILED

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No.....

In The
Supreme Court of the United States

In re: JOHN KOJO MENSAH,
Petitioner-Appellant

On Petition For Writs of Mandamus To The United States Court of Appeals For The Seventh Circuit And The Michigan State Court Of Appeals

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PETITION FOR WRITS OF MANDAMUS, INJUNCTION AND/OR PROHIBITION

Pro se Petitioner, JOHN KOJO MENSAH
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QUESTIONS PRESENTED FOR REVIEW

FIRST PETITION: 1. Whether this court has jurisdiction to issue a writ of mandamus, directed to the Court of Appeals, on the basis that it has abused its discretion in declining to allow an appeal from the judgment of the District Court?

2. Whether the Court of Appeals abused its discretion in declining to allow an appeal from the judgment of the District Court denying petitioner's petition for writ of mandamus to direct the district court judge to vacate his order refusing to grant a stay, or writ of mandamus and/or prohibition of defendant-appellee federal agencies and officials' continued illegal and harmful covert actions against this petitioner?

3. Whether this Court should exercise its discretion to issue a writ of mandamus to the United States Court of Appeals for the Seventh Circuit?

SECOND PETITION: 1. Whether this court has jurisdiction to issue a writ of mandamus, directed to the Michigan State Court of Appeals, on the basis that it has abused its discretion in declining to allow an appeal from the judgment of the Michigan Family Court?

2. Whether the Michigan States Court of Appeals abused its discretion in declining to allow an appeal from the judgment of the Michigan Family Court denying petitioner's petition for declaratory judgment to vitiate the termination order of the Michigan family Court?

3. Whether this Court should exercise its discretion to issue a writ of mandamus to the Michigan State Court of Appeals?

LIST OF PARTIES TO THIS PETITION

All parties do not appeal in the caption of the case on the cover. A list of all parties to this petition before this United States Supreme Court is as follows:

1. Hon. William J. Bauer, Circuit Judge, U.S. Court of Appeals, Seventh Circuit

2. Hon. Ilana Diamond Rovner, Circuit Judge, U.S. Court of Appeal, Seventh Circuit

3. Hon. Terence T. Evans, Circuit Judge, U.S. Court of Appeals, Seventh Circuit

4. Hon. Richard A. Bandstra, Michigan State Court of Appeals Judge

5. Hon. Susan L. Dobrich, Michigan Family Court, 45th Judicial Circuit Judge

6. Hon. Thomas E, Schumaker, Michigan Family Court, 45th

Judicial Circuit Judge

7. Hon. Doris Meissner, INS Commissioner and her successors.

8. Hon. Carol Jennifer, INS District Director, (Detroit) and her successors.

9. United States Immigration and Naturalization Service, (INS).

10. Hon. George Tenet, CIA Director and his successors.

11. United States Central Intelligence Agency, (CIA).

12. Douglas Howard, Executive Director Michigan Family Independence Agency, (FIA).

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PETITION FOR WRIT OF MANDAMUS TO COURT OF APPEALS FOR THE SEVENTH CIRCUIT, AND THE MICHIGAN STATE COURT OF APPEALS

John Kojo Mensah, pro se petitioner herein, by his own counsel petitions this Court to issue a writ of mandamus to respondent U.S. Court of Appeals; a writ of injunction to defendant-appellee United States of America and its listed federal agencies and officials; and a writ of mandamus for a declaratory relief to respondent Michigan State Court of Appeals:

OPINIONS BELOW

1. John Kojo Mensah v. United States of America, No.01-1472 Order Den. Review (7th Cir. 3/12/01) (Unpublished).

2. John Kojo Mensah v. United States of America, No. 01-1422 Order Den. Pet. for Writ of Mandamus(7th Cir. 3/12/01)

3. John Kojo Mensah v. United States of America, No. 01-1358 Order Den. Mot. for Ex parte Orders (7th Cir. 3/9/01)

4. John Kojo Mensah v. United States of America, No. 3:00 MC0019AS Order Dismiss (Dist. Ct. 12/20/00) Unpublished

5. John Kojo Mensah v. United States of America, No. 3:98 CV360RM Order Dismiss (Dist. Ct. 8/17/98) Unpublished

6. In re: Mensah Minors, No. 221369 L.C. No. 97-0053 Order Den. Appeal (Mich. App. Ct.6/30/00) Unpublished

7. In re: Mensah Minors, No. 97-53 Termination Order (45th Cir. Fam. Div. 7/16/99) Unpublished

8. Letter to Hon. Doris Meissner, INS Com. (Pet. 12/20/00)

JURISDICTIONAL STATEMENT

Jurisdiction to grant the writ of mandamus to the United States Court of Appeals and the Michigan State Court of Appeals, sought by petitioner herein, is conferred on this Court by the provisions of Section 1651(a), Title 28, United States Code, and Rule 20 of this Court. Pursuant to United States Supreme Court Rule 29.4(b) and (c); petitioner states that 28 USC § 2403(a) apply in this case, and a copies of this document shall be served on the Solicitor General of the United States, Room 5614, Dept of Justice, 950 Pennsylvania Ave., Washington, DC 20530-0001. Pursuant to 28 USC § 451 and 28 USC § 2403(b) petitioner states that the lower court did certify to the State Attorney General the fact that the constitutionality of an act of congress was drawn into question.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

1. Administrative Procedure Act, (APA) 5 USC § 702
Right to Judicial Review: A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action, within the meaning of a relevant statute, is entitled to judicial review thereof. An action in a court of the United States seeking relief other than money damages and stating a claim that an agency or officer, employee thereof acted or failed to act in an official capacity under color of legal authority shall not be dismissed nor relief therein denied on the ground that it is against the United States or that the United States is an indispensable party. In any such action

the United States may be named, and a judgment or decree, may be entered against the United States: Provided that any mandatory or injunctive decree shall specify the Federal official or officers (by name or title), and their successors in office, personally responsible for compliance.

2. Mandamus Relief, 28 USC § 1361:

The district court shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.

3. Fifth Amendment, United States Constitution:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentation or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

4. First Amendment, United States Constitution:

Congress shall make no law respecting establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or the right of the

people peaceably to assemble, and to petition the government for redress of grievances.

5. Fourth Amendment, United States Constitution:

The right of the people to be secure in their persons, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

6. Fourteenth Amendment, United States Constitution:

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, property without due process of law; nor deny to any person within its jurisdiction the equal protection of laws.

7. Uniform Child Custody Jurisdiction Act, (UCCJA) 28 USC § 1738(A):

The appropriate authorities of every state shall enforce according to its terms, and shall not modify except as provided in subsection (f) of this section, any child custody determination made consistently with the provisions of this section by a court of another state.

8. Michigan Child Welfare Law, MCL 712A.2(b)(1) and (b)(2)

Whose parent or other person legally responsible for the care and maintenance of such child, when able to do so, neglects or refuses to provide proper or necessary medical, or other care necessary for his health, or who was abandoned by his parents, guardianship to MCL 712.2(b)(1). Whose home or environment by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian or other custodian is an unfit place for such children to live in, to-wit: MCL 712A.2(b)(2).

9. 42 USC § 1983:

Every person who, under color of any state, ordinance, regulation, custom or usage, of any state or territory or the District of Columbia, subjects, or causes to be subjected, any citizens of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunity secured by the Constitution laws, shall be liable to the party injured in an action at law, suit equity, or other proper proceeding for redress. For the purpose of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to a statute of the District of Columbia.

10. 28 USC § 1651, Writs:

(a). The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of

their respective jurisdictions and agreeable to the usages and principles of law. (b). An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction.

11. 28 USC § 1915(d):

(a). Any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees and costs or security therefor, by a person who makes affidavit that he is unable to pay such costs or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that he is entitled to redress. An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith. (d). The court may request an attorney to represent any such person unable to employ counsel and may dismiss the case if the allegation of poverty is untrue, or if satisfied that the action is frivolous or malicious.

STATEMENT OF THE CASE

FIRST PETITION: 1. This petition is filed pursuant to the authority to issue extraordinary writs vested in this Court by the provisions of section 1651(a), Title 28, United States Code, and Rule 20 of the Rules of the Court, to review the order of the United States Court of Appeals for the Seventh Circuit, declining to allow an appeal from the judgment of the District Court entered December 20, 2000 which dismissed petitioner's motion for leave to file suit, as demanded by the court to do prior to seeking judicial review and redress of recurring illegal federal agency action directed against

petitioner for these past 16 years causing severe trauma and horrendous irreparable emotional, physical and mental harm and injury absent a court mandated injunction or judicial remedy sought. 2. Copies of the District Court's judgment and of the Court of Appeals' said order are set forth in the Appendix to this petition, together with a copy of the District Court's opinion rendered in connection with its judgment, the same being officially unpublished.

3. There are also included in the Appendix hereto the following papers which are essential to an understanding of the instant petition: a/. recent letter addressed to INS Commissioner, Doris Meissner indicating continued attempt at obtaining administrative remedy to resolve recurring illegal harmful covert acts directed at petitioner and his minor children. See appendix 15.

4. Petitioner filed this cause of action against the United States Of America pursuant to 5 USC § 701 to 706 under the Administrative Procedure Act (APA.) for judicial review, and concurrently invoked 28 USC § 1361 for right to sue for mandamus relief: alleging that the defendant-appellee the United States of America and its Immigration and Naturalization Services (INS); the INS Commissioner Doris Meissner and district director of the INS, (Detroit), Carol Jennifer; and her predecessor in collaboration with the Central Intelligence Agency, (CIA) and its director George Tenet have sanctioned, ordered, and engaged in a legal wrong in the form of a conspiracy under color of law to the deprivation and repetitive violation of rights and privileges of this petitioner-appellant and his minor children guaranteed under the constitution of the United States beginning from 1985 to the present April 2001 causing substantial irreparable emotional, mental and physical injury.

This federal agency sanctioned legal wrong and rights deprivation in the form of a covert campaign of terror involved violations of the First, Fourth, Eighth, Thirteenth; and the due process and equal protection clause of the Fifth Amendment of the United States Constitution. Further violations of law resulting from defendant appellees' actions included violation of Fourteenth Amendment protection rights carried out in conspiracy under color of law by state actors (Michigan) such as Judges Thomas E. Schumaker, and Susan L. Dobrich with judicial officers and social workers at the Michigan Family Independent Agency, (FIA). The Full Faith and Credit Clause of the Uniform Child Custody Jurisdiction Act, (UCCJA) were also violated since prior to Michigan Family Court involvement, an Indiana State Court had granted custody of the children to petitioner in consistency with provisions of PKPA upon the death of the mother while divorce proceeding was pending in Indiana.

Petitioner brought this cause before the district court under APA and § 1361 in a previous attempt seeking judicial review and a stay of agency action, injunctive and/or mandamus relief. Although previous attempts at redress were wrongfully dismissed, pro se petitioner was not aware of extraordinary remedy under 28 USC § 1651(a) until now while recurring violations of rights continued to cause more harm to him. District Court judge's ruling ignored petitioner's presumptive right to judicial review as mandated by 5 USC § 551, 702 (APA), and the right to sue provision under 28 USC § 1361 while the federal agencies' horrific acts of terror recurred.

In following the court's own order to obtain the court's permission prior to filing a case against the appellee, petitioner filed this recent case to obtain court's permission to file suit against defendant-appellee for recurring violations of rights as

contained in previous suits, but the court issued this attached order of December 20, 2000 to erroneously dismiss the case in the meaning of 28 USC § 1915(d) although petitioner did not file an in forma pauperis case. Subsequently petitioner filed a timely notice of appeal however respondent judges at the court of appeals immediately dismissed petitioner's right to appellate review. Such erroneous dismissal of review constituted an abuse of discretion, thus court of appeals made erroneous legal conclusions and inappropriately resolved genuine issues of disputed facts.

SECOND PETITION: 1. This petition is filled pursuant to the authority to issue extraordinary writs vested in this Court by the provisions of Section 1651(a), Title 28, United States Code. and Rule 20 of the Rules of the Court, to review the order of Michigan State Court of Appeals, declining to allow an appeal from the judgment of the Michigan Family Court entered on July 16, 1999 terminating petitioner's parental rights despite the absence of jurisdiction to use the Michigan Family Court to determine the merits of petitioner's previous case filed in federal court against defendant-appellee United States of America and its federal agencies and officials for years of orchestrated campaign of terror and rights deprivation causing irreparable emotional harm and mental injury.

2. Copies of the Michigan Family Court's said judgment and the Michigan Court of Appeals said order are set forth in the Appendix to this petition, together with a copy of the Michigan Family Court's opinion rendered in connection with its judgment, the same being unpublished.

3. Defendant appellee United States INS covert operatives instructed petitioner's wife to kidnap petitioner's children from

Indiana in March, 1997 to an undisclosed destination in Michigan after having induced her to collaborate in various covert activities intended to cause harm and injury to petitioner; acts including acts of sodomy and ritualistic sexual acts performed in petitioner's home while he and the children lay sedated in the room. Months after the kidnapping, petitioner filed for divorce in Indiana, and while the case was pending trial and final determination, defendant-appellee orchestrated the death of petitioner's wife in a car/train accident in order to place her in the federal witness protection program to avoid disclosure of the gruesome illegal coverts acts in the trial. Defendants-appellees federal agents then induced the Michigan Family Court, its judges and judicial officers in collaboration with the Michigan Family Independence Agency, (FIA) to use a dubious petition to deprive petitioner custody and care of his minor children despite the absence of all jurisdiction; any allegation or history of neglect, abuse, or drunkenness as required by state child welfare laws even if the Michigan state court had jurisdiction at all. Besides, an Indiana state court granted custody of the minor children to this petitioner, the natural father upon the "death" of his wife.

REASONS FOR GRANTING THE WRIT

FIRST PETITION: 1. The relief herein sought is available, and there is an adequate remedy, by way of appeal to the Court of Appeals for the Seventh Circuit, and writ of certiorari to this court. However, the Court of Appeals has dismissed petitioner's appeal even before an appeal brief could be submitted claiming that it has discretionary power to do so. Petitioner, therefore, has no recourse to obtain review of the District Court's judgment herein other than by application for

issuance by this Court of a writ of mandamus to the Court of Appeals to entertain petitioner's appeal and, in the event of an unfavorable decision, a subsequent application to this Court for writ of certiorari.

2. (a). The issues involved in the present proceeding are of an exceptional character and of great public importance in that defendant-appellee's armed INS covert operatives continue to subject this petitioner to daily orchestrated episodes of entrapment in public places such as the local library, grocery stores, banks, gas stations, post offices, etc., and that these activities are charged with intense hostility and harassment intended to facilitate arrest of petitioner and could result in discharge of fire-arms by the aforementioned operatives. The substantial risk of harm exposed to petitioner's personal security and the risk to public safety is of such high significance to warrant extraordinary writ of mandamus. (b). Also 16 years of defendant-appellees' violations of multiple violations of petitioner's rights guaranteed by the United States constitution and further violations of such rights including the deprivation of petitioner's right to due process and equal protection clause of the Fifth Amendment pose great harm to public trust in appellee federal agencies; INS and the CIA and their noted federal officials who are duty bound and held by oath to protect these rights of petitioner being flagrantly violated to militate in favor of granting extraordinary writ of mandamus to uphold such trust and honor the integrity of the constitution.

(c). Furthermore daily orchestrated campaign of terror and rights deprivation in the form of defendant-appellees' covert operatives' intense surveillance involving stalking in and out of buildings; surveillance via electronic listening and tracking devices; around the clock use of thermal imaging cameras and siege to petitioner's home by evacuating and relocating

neighbors in order to use homes of private citizens for such purposes; the use of mental telepathy for surveillance to violate petitioner's most private thoughts by agents hiding in adjacent apartment; the consistent use of daily orchestrated incidents of death-threats and forms of intimidation and inducement; employment, financial or economic deprivation; religious deprivation and orchestrated social isolation these 16 continuous years; together has caused irreparable emotional, and mental harm and injury on petitioner. These violations also include frequent routine illegal entry, search and seizure of petitioner's home in collaboration with the landlady from whom operatives obtained keys to the premises. Illegal entries continues, while noise-making devices planted in the walls, plumbing, appliances, etc. in petitioner's apartment continue to be detonated daily via remote means for sleep-deprivation and inducement, while relief is sought. (emphasis added on recurring acts of rights violations). These covert activities including orchestrated social banishment and terror directed at this petitioner by defendant-appellees INS and the CIA has extended through 11 countries across 3 continents these last 16 long years causing petitioner to be totally ostracized and abandoned in a life of absolute seclusion devoid of fundamental civil rights and personal freedom guaranteed by the United States Constitution. Petitioner's "injury in fact" economic and otherwise fall within the "zone of interest" intended to be protected by relevant statutes presented herein this petition.

(d). Information obtained via thermal imaging cameras, and bugging devices are used in acts of innuendo incorporated in both secular and religious television episodes, radio broadcast and other media programs. Orchestrated employment deprivation resulted in current heath crisis in which petitioner is plagued with a ruptured disk or permanent spinal cord injury yet was compelled to cancel scheduled surgery this February

2001 to avoid risk of being caused further harm while sedated for the procedure. The purpose of surgery is to alleviate associated intense daily pain. Defendant-appellees' used intense inducement activity to cause petitioner's Social Security disability claim to be denied, leaving him with such severe physical injury and no means of support. This critical medical condition, and the irreparable emotional and mental harm already caused to petitioner, the eminent threat of further harm and the overwhelming threat to public trust and safety also add to the exceptional and emergency nature of this petition. In previous covert activities, operatives induced a dentist to uproot a perfectly healthy tooth from petitioner's mouth to further this terror campaign; they also induced a physician to use crude stitches after an in-office surgery to leave ugly scars on petitioner's back. The use of crude hair-cut at Barber Shops have consistently been a means for defendant-appellees' armed operatives to humiliate and provoke petitioner and orchestrate an arrest-trap; endangering petitioner's life. These acts also pose great risk to public security.

Absent a court mandated injunction and subsequent appellate review de novo, these past 16 years of intensive appellee federal agencies and officials' illegal covert terror campaign will continue and thereby cause further irreparable harm and injury on this petitioner. Therefore these wanton violations of law warrant extraordinary writ of mandamus and further judicial imperative of injunctive relief. Although violations are similar in routine and particularity as complaint presented in previous suit, statutes under APA, 5 USC § 551, 702-706, and 28 USC § 1361 do not excuse nor preclude victims such as this petitioner from seeking redress of violations recurring in the most identical fashion and causing continued irreparable harm and injury to petitioner in the absence of injunctive or mandamus relief sought.

3. (a). Based on above facts presented, mandamus writ may be used in such extraordinary and exceptional case of peculiar emergency or public importance as in this case where the method of appeal has been denied by the appellate court. *Bartsch v. Clarke*, C.A.4, 1961, 293 F.2d 283. The writ of mandamus sought by petitioner is issued in a case such as this where the lower court has abused its discretion, or refuses to exercise it as alleged here. *Frost v Yankwich*, C.A.9 (Cal.) 1958, 254 F.2d 633. Also issuing a writ of mandamus in favor of this petitioner to compel the seventh circuit court of appeals to exercise its authority of granting required appellate review de novo when it is its duty to do so, or to correct a clear abuse of discretion such as denying petitioner the right to appeal in this case which raises substantial legal question with allegations of recurring multiple violations of constitutional rights causing irreparable harm and injury is appropriate. See, *Evanson v Union Oil Co. of California*, Em.App.1980, 619 F.2d 72, certiorari denied 101 S. Ct. 102, 449 U.S. 832, 66 L.Ed.2d 38. In view of the extraordinary and peculiar circumstances involved in petitioner's case, even the mere granting of appeal by court of appeals would have been inadequate relief since damage to petitioner not correctible on appeal, and mandamus relief in this instance is appropriate. *Citibank N.A. v. Fullam*, C.A.3, 1978, 580 F.2d 82.

(b). While petitioner filed a timely appeal which was denied by the court of appeals even before an appeal brief was due to be submitted, see appendix 1 for copy of order; in this horrendous circumstance where petitioner is held hostage in his home; and endangered on the streets, in the store, bank, public library, etc. with orchestrated acts of inducement and entrapment; in such "an unusual case, mandamus will lie to enforce performance of judicial responsibility" of granting appellate review. *Donnelly v. Parker*, 1973, 486 F.2d 402, 158 U.S.App.D.C. 335. Absent

the issuance of writ of mandamus requested, petitioner has no other adequate remedy or means to attain relief sought; *Kerr v. U.S. Dist. Court for Northern Dist. of California*, Cal.1976, 96 S.Ct. 2119, 426 U.S. 394, 48 L.Ed.2d 725. Furthermore, this petitioner's right to mandamus writ sought is clear and indisputable point emphasized in *First Jersey Securities, Inc. v. Bergen*, C.A.3, 1979 605 F.2d 690, certiorari denied 100 S.Ct. 1020, 444 U.S. 1074, 62 L.Ed.2d 756. By denying petitioner the right to appellate review, the Court of Appeals refused to exercise its jurisdiction and deprived petitioner review before the court on basic issues involved in the litigation. Extraordinary remedy of mandamus in this instance is proper as presented in the case of; *Vickers Motors, Inc. v. Wellford*, C.A.6 (Tenn.) 1974, 502 F.2d 967. Especially as in petitioner's case where the right to writ is clear and indisputable, see also *In re Glass, Moulders, Pottery, Plastics & Allied Workers Intern. Union*, Local No. 173, C.A.6 (Ohio) 1993, 983 F.2d 725.

The Court of Appeals' "failure to act despite a clear and unmistakable duty to do so" by denying appellate review of a timely filed appeal create indisputable right of this petitioner to a mandamus remedy reserved for such extraordinary situations; reference, *U.S. Dept of Energy v. Crocker*, Em.App.1980, 629 F.2d 1341. In such "clear error of law, mandamus will be granted," *Sporck v. Peil*, C.A.3, 1985, 759 F.2d 312, certiorari denied 106 S.Ct.232, 474 U.S. 903, 88 L.Ed.2d 230. This petitioner besides filing a timely notice of appeal and subsequent denial of review by the Court of Appeals, also filed a petition for writ of mandamus which was denied by that court, see appendix 4; a situation with clear precedent that, "a writ of mandamus may be issued to prevent the district judge from thwarting the commencement of an action over which the appeals court would have appellate jurisdiction." *U.S. v. U.S.*

District Court For Southern Dist. of W.Va., C.A.4, 1956, 238 F.2d 713, certiorari denied 77 S.Ct. 382, 352 U.S. 981, 1 L.Ed.2d 365. (c). Petitioner's allegations of multiple constitutional rights violations; continued irreparable emotional and mental harm and injury he will suffer absent granting a writ of mandamus; critical medical and health condition pending surgery without covert interference; total financial deprivation with no income due to physical injury and orchestrated employment deprivation, exceed the standard of "justiciable controversy" presented in the court's ruling in; *benShalom v. Secretary of Army*, D.C.Wis.1980, 489 F.Supp. 964, in which "review of merits of petitioner's allegations of violation of U.S.C.A. Const. Amends. 1, 5 and 9 was appropriate when one considered nature and strength of challenges to her discharge, potential harm she would suffer if review was refused, overall insignificant interference with vital duties of military, etc." Abundance of collateral harm presented by this petitioner with no available remedy also provide additional grounds for issuance of writ of mandamus. Such physical injury a direct result of defendant-appellees' covert employment deprivation from suitable or qualified employment and orchestrated "forced labor" on menial jobs. Granting mandamus writ in this circumstance with such great likelihood of harm is emphasized in; Arthur *Young & Co v. U.S. Dist. Court*, C.A.9 (Cal.) 1977, 549 F.2d 686, certiorari denied 98 S.Ct. 109, 434 U.S. 829, 54 L.Ed.2d 88. Although the writ requested will aid jurisdiction, it is also "necessary to preserve issues" presented "for possible subsequent appeal." as in, *Godtfredsen v. Banner, Cust. & Pat.App.*1979, 598 F.2d 589.

(d). This court's power to issue a writ of mandamus concurrently to enjoin defendant-appellees and respondent circuit judges is appropriately "invoked to compel officers, or employees or agencies of government to perform a duty owed

to petitioner," see *Joseph v. de Castro*, D.Virgin Islands 1992, 805 F.Supp. 1242, affirmed 995 F.2d 217.

The district court dismissed petitioner's case on the grounds that allegations of rights violation causing substantial harm was "irrational and wholly incredible" in the meaning of 28 USC § 1915(d). However, § 1915(d) as emphasized in *Neitzke v. Williams*, 490 U.S. 319 (1989) considered the standard to be applied when determining whether the legal basis of an in forms pauperis complaint is frivolous, and such standard is not applicable in petitioner's case in that he did not file an in forma pauperis case, the appropriate filing fee was paid prior to filing this case. Therefore § 1915(d) ruling as presented in *Denton v. Hernandez* was erroneously applied and does preclude petitioner's right to appeal as permitted by that statute. Furthermore petitioner's complaint involving allegations of recurring violations of constitutional rights presented substantial legal (worthy) question with detailed specificity upon which relief might be granted, and its legal points were arguable on their merits. *Darden v. Mc Mackin*, N.P. Ohio 1991, 761 F.Supp. 52. Substantial legal question raised by petitioner exceeded such standard raised by the court in *Reynoldson v. Shillinger*, C.A. 10 (Wyo.) 1990, 707 F.2d 124. Even if standard contained in § 1915(d) was applicable in this instant case had petitioner filed an in forma pauperis case, the court in *Denton v. Hernandez* also emphasized that in order to respect congressional goal of assuring equality of consideration for all litigants, initial assessment of frivolousness of in forma pauperis plaintiff's factual allegations must be weighted in favor of plaintiff. The court strongly maintained contrary to the district court's ruling of dismissal in this instant case, that the § 1915(d) frivolous determination, cannot serve as a factfinding process for the resolution of disputed facts.

(f). Legislative mandate under APA did not permit dismissal or foreclosure of the right to judicial review, (5 USC § 551,701-706), unless statute preclude such review. In the case of City of *Rochester v. Bond*, C.A.D.C.1979, 603 F.2d 927, 195 U.S. App.D.C. 345, the court noted that one who has been injured by agency action, even irreparably such as this petitioner is presumptively entitled to judicial review. Also statute under 28 USC § 1361 protects petitioner's right to sue for mandamus relief for violations of multiple rights contained in the complaint which had strong emphasis made on the fact that violations constitute recurring acts of similar violations previously presented to the court without granting of appropriate review and relief; and further demanded that absent a court mandated injunction these horrific acts of deprivation of rights causing irreparable injuries will continue. The recurring nature of violations creating new circumstances for redress was overlooked by both District Court ruling, see appendix 6, paragraph 2. and appendix 8, paragraph 1. by Judges Allen Sharp and Robert Miller, Jr. respectively, although the point was well emphasized in each instance that horrendous acts of rights violations were recurring absent a mandated injunctive or mandamus relief sought.

(g). In *Coppedge v. Marsh*, D.C.Kan. 1982, 532 F.Supp. 423; this court ruled in a similar circumstance as this case that, "alleged violations of due process and equal protection rights, were not frivolous." Therefore the court of appeals denial of review in this case involving recurring violations of petitioner's constitutional rights causing horrendous and irreparable injuries is a miscarriage of justice and does constitute an abuse of discretion. Such erroneous legal conclusions by the respondent circuit judges neglected to resolve genuine issues of disputed facts where the petitioner's right to review is indisputable and the extraordinary circumstance here warrants granting a writ of

mandamus.

SECOND PETITION: 1. The relief herein sought is available, and there is adequate remedy, by way of appeal to the Michigan State Court of Appeals, the Michigan State Supreme Court, and writ of certiorari to this court. However, the State Court of Appeals has dismissed petitioner's appeal, claiming that it has discretionary power to do so. Petitioner, therefore, has no recourse to obtain review of the Michigan Family Court's judgment herein other than by application for a issuance by this Court of a writ of mandamus in the form of a declaratory relief to the Michigan State Court of Appeals.

2. (a). The issues involved in the present proceeding are of an exceptional character and of great public importance in that they involve violations of the Fourteenth Amendment of the United States constitution due to the fraudulent nature of the Family Court trial where the federal appellees INS covert operatives induced the judicial officer Cathleen Coleman to pick out a pre-selected list of jurors to enable the court to hand down a pre-determined verdict; in a case where the Family Court had no jurisdiction to function as a court.

b/. The two judges involved in the case; Thomas E. Schumaker, and Susan L. Dobrich were induced by federal appellees' covert operatives to ignore constitutional rights of petitioner; the right to due process and equal protection of law clause under the Fourteenth Amendment to preside over fraudulent proceedings in order to cause harm of irreparable emotional and mental injury on petitioner and his minor children. Michigan Family Court proceedings further violated the Full Faith and Credit Clause of Uniform Child Custody Jurisdiction Act, (UCCJA) due to fact that Indiana state court

prior jurisdiction due to pending divorce trial.

c/. Such flagrant violations of law by judicial officers who are bound by oath to a required duty to effectuate the manifest ends of justice causes great detrimental impact on public trust in the judicial system; in the integrity of the laws of the United States Constitution of which they are entitled to protect and further erode fundamental public confidence.

3. (a). In the meaning of 28 USC § 1651, 28 USC § 1361 and 42 USC § 1983, petitioner seeks to join noted circuit court judges listed under First petition to the Michigan state court judges listed under Second petition. The precedent for such a scenario can be found in, *Marquez v. Hardin,* D.C. Cal. 1969, 339 F.Supp. 1364 where this United States Supreme Court ruled that; although state was not an "indispensable party" in suit to compel Secretary of Agriculture to ensure that all needy school children participating in program under National School Lunch Act, § 1751 et seq. of Title 42, be provided with free or reduced-price school lunch and issue standards of eligibility, inasmuch as state had direct interest in matter and its joinder would make complete relief possible, state was a party which should be "joined if feasible." Petitioner's alleged due process and equal protection clause violation of the Fourteenth Amendment was carried out in joint conspiracy between the defendant federal-appellees and state officials, thereby allowing the Michigan Family Court to perpetrate the law violation of jury tampering, and abuse of discretion to deprive petitioner custody of his children despite absence of all jurisdiction. Prior to the allege Michigan Family Court involvement in the custody of petitioner's children, Indiana State Court had earlier on 10/29/97 granted custody of the minor children to this petitioner in consistency with provisions of the Parental Kidnapping Prevention Act, (PKPA); causing violation of the

Full Faith and Credit Clause of UCCJA. The minor children have been irreparably harmed and injured emotionally and mentally with clear symptoms of maladaptive behaviors and signs of dissociation. and will continue to be so harmed with denied right of contact and custody of their natural father. States not dispensable parties in; *Friends of the Earth v. Armstrong*, D.C. Utah 1973, 360 F.Supp. 165. Also, *Jean v. Meissner*, D.C.Fla.1981, 90 F.R.D. 658. This joinder will make complete relief possible.

(b). Under this second petition; petitioner seeks a declaration that Michigan Family Court decree was void as a violation of due process 14th Amendment rights; as in *Catz v. Chalker*, 142 F.3d 279 (6th Cir. 1998). There is no Eleventh Amendment immunity in this instance according to the law and the domestic relation exception do not apply here. Domestic relations exception to federal jurisdiction applies only where plaintiff sues in federal court for divorce, alimony, or child custody, that is not the case here; emphasis added. The child custody aspect of petitioner's constitutional claim is incidental. Indiana State Court already granted custody to petitioner prior to Michigan Family Court interference. The alleged jury tampering and the pre-determined verdict handed down through such fraudulent act in a court of law at the presence of certain Judge Schumaker, and other judicial officers constitute due process violation. While the Michigan state court had no jurisdiction, state court judges, Schumaker and Dobrich used that court to determine the merits of petitioner's case filed in federal court against the defendant federal-appellees in compliance to 28 USC § 1331; claiming that petitioner had "delusional thinking" for seeking redress of grievance against defendant federal appellees. See statement in Termination Report, "The record is replete with examples of Mr. Mensah's delusional thinking, including beliefs that the INS had bugged

his house...", appendix 20 paragraph 1; information taken directly from petitioner's federal district court complaint. (Emphasis added). In this instance case, this petitioner contend that the Michigan state court did not have the capacity to function as a court to determine the merits of his case pending in federal court.

Furthermore, no where in Judge Dobrich's termination report does she address this petitioner's challenge to the court's lack of jurisdiction as venue to determine the merits of his suit filed in federal court against the federal agencies for redress; and neither does she make any effort to address the Michigan state court's violation of the Full Faith and Credit Clause of the UCCJA for contradicting an Indiana state court's custody order. Also Judge Dobrich's termination order ignores consistent precedent in Michigan law that, " a parent's failure to comply fully with DSS treatment plan (ie. parenting class, psych. evaluation, etc.) does not establish neglect without clear and convincing evidence that the treatment plan was necessary to improve the parent's allegedly neglectful behavior." *In re Mason*, 140 Mich App 734, 364 NW.2d 301 (1985); *In re Moore*, 134 Mich App 586, 351 NW.2d 615 (1984). No neglect allegation even exist in this case.

(c). In the absence of any history of abuse, neglect or drunkenness even if Michigan state had jurisdiction, petition from state prosecutor did not meet minimum threshold requirement for standing under Michigan child welfare law, MCL 712A.2(b)(1) and (b)(2) which required a history or alleged abuse, neglect or chronic drunkenness. However concerted efforts were made to discredit this petitioner and undermine his loving relationship with his minor children with fabricated lies such as; "Lucy, the oldest child had expressed fears of residing with the father." Termination report app. 14,

paragraph 3. When in fact petitioner's daughter reported to him that she was brought to the court house and questioned by Judge Schumaker and she told him; "I miss my daddy," and "me and my sister want to go back to daddy." But Judge Schumaker ignored her plea and proceeded with the covert illegal mandate of the INS operatives to continue alleged illegal proceedings despite absence of all jurisdiction. References made by Judge Dobrich in her termination report regarding the testimony and Lane/Mensah Family Assessment prepared by certain Christine Flagler from Bethany Christian Services and supposed psychological evaluation conducted to petitioner's children by Dr. William Schirado were all concerted fabricated lies orchestrated as part of routine inducement activities by INS covert operatives to further this alleged conspiracy. Throughout proceeding at the state court, not once did the so-call Dr. Schirado present and defend his dubious report in court, and submit to cross-examination. Petitioner filed a subpoena and served copies on all parties requesting his daughter Lucy to be interviewed in judge's chamber yet the court's copy of this subpoena disappeared from court files while the prosecutor, the court-appointed children's attorney and FIA worker all denied being served copies of the subpoena.

Even during termination trial Judge Dobrich did not permit petitioner to fully question witnesses allowing this petitioner only 5 minutes of questioning per witnesses when there was no reciprocal limitation on the prosecutor--a clear evidence of bias and violation of petitioner's right to equal protection of the law and due process. The conduct of the two state judges, Schumaker and Dobrich made mockery of the law. This petitioner is aware that in this cause he comes against the sovereign authority of the United States and the harm caused to him and his minor children is substantial and horrendous but

he will persevere to claim mandated rights that he is entitled to although 16 long years have passed since this campaign of terror originated, and relief sought is clearly warranted to prevent continued irreparable harm and injury.

Although granting declaratory relief may seem to directly impact Michigan Family Court decree, and the care and custody of petitioner's children; however judgment obtained by fraud, or by a court without jurisdiction as stated above in this scenario or in violation of due process rights and abuse of judicial discretion as carried out by noted state judges Schumaker and Dobrich is void. See, *Banner v. Banner*, 45 Mich.App. 148, 206 NW2d (1973); *Jackson City Bank & Trust Co. v. Frederick*, 271 Mich. 538, 260 NW 908, (1935), and *Hatcher v. Hatcher*, 129 Mich.App. 753, 343 NW2d 498, 1983. Besides, custody decision had already been granted to petitioner in consistency to provision of the PKPA by the Indiana state court (Elkhart Superior) upon the death of his wife in a pending a divorce trial. Herein lies the collateral violation of the Full Faith Credit Clause of UCCJA. The UCCJA states: once a state exercises jurisdiction consistently with provisions of Parental Kidnapping Prevention Act, (PKPA), no other state may exercise concurrent jurisdiction over custody dispute even if it would have been in its power to take jurisdiction under state law, and all states must accord full faith and credit to first state's ensuing custody decree. *Atkins v. Atkins*, La. App. 2 Cir. 1993, 623 So. 2d 239.

(d). As in the *Catz v. Chalker*, no where does this petitioner make a general constitutional challenge to any Michigan law or rule of procedure; this petitioner simply attacks as unconstitutional the manner in which the Michigan Family Court presided over by Judge Schumaker, and later fraudulent termination proceeding by Judge Dobrich was conducted,

emphasis added. The court ruled under *Catz v. Chalker*, that cases stating that to avoid the reach of the *Rooker-Feldman* doctrine, a case must present a "general challenge" rather than a "specific grievance" do so in the context of direct attack on the substance of the State Court decision. Here the claim that survives claim preclusion, as outlined above are directed to the procedure used by the Arizona Court, procedure that Judge Echols found, if true, to be "shocking," similar to petitioner's case where fraud, jury tampering in the presence, knowledge and participation of state judges (knowing court had no jurisdiction, and proceedings were fraud) to the eminent violation of petitioner's due process right under the Fourteenth Amendment. For instance the Court in *Catz v Chalker*, continued, "Thus, permitting jurisdiction in this case does not contravene the heart of the *Rooker-Feldman* doctrine, the prohibition of reviewing the substance of the state court judgment." *Sun Valley Foods, Co. v. Detroit Marine Terminals, Inc.*, 801 F.2d 186, 188-89 (6th Cir. 1986). The purpose of this petition is to obtain declaratory relief through a "collateral attack on state court judgment which is alleged to have been procured through fraud, deception, accident, or mistake..." such as presented in this petition case. Please see, *Resolution Insurance Co. v. State of North Carolina*, 397 F.2d 586, 589 (4th Cir. 1968), also *Levis v. East Feliciana Parish Sch. Bd.*, 820 F.2d 143, 146 (5th Cir. 1987). Based on above facts, due process challenge to state court proceedings not barred by Rooker-Feldman doctrine, and therefore this horrendous extraordinary circumstances of eminent harm warrant granting of declaratory relief sought.

CONCLUSION

Wherefore, (1). petitioner prays that this Court issue a writ of

mandamus to said United States Court of Appeals, directing it to entertain and decide petitioner's appeal filed therein. (2). Petitioner also prays this Court issue writ of injunction and/or prohibition, directing defendant-appellee United States of America and the listed federal agencies (INS and CIA), and federal officials Doris Meissner, Carol Jennifer, George Tenet and their successors, enjoining them from any further acts of orchestrated covert activities in the form of a campaign of terror and constitutional rights deprivation pending appellate review; or for complete closure petitioner pray this Court grant a permanent injunctive relief. (3). Petitioner prays this Court further grant declaratory relief that state court judgment as a violation of due process, (count I), and the Full Faith and Credit clause of UCCJA, (count II), and in the absence of all jurisdiction, (count III) is void. Petitioner further prays that this Court grant petitioner such other relief as it may deem to be just and equitable.

Respectfully submitted,

.....

John Kojo Mensah,
Petitioner-Appellant
816 1/2 Fulton St.
Elkhart, IN 46514
Ph. # (219) 296-0616

Case No. 01-1472
United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Decided March 12, 2001

Before

Hon. WILLIAM J. BAUER, *Circuit Judge*
Hon. ILANA DIAMOND ROVNER, *Circuit Judge*
Hon. TERENCE T. EVANS, *Circuit Judge*

JOHN KOJO MENSAH,	) Appeal from the United States
Petitioner-Appellant,	) District Court for the Northern
	) District of Indiana, South Bend
v.	) Division.
	) No. 00 M 19
UNITED STATES	)
OF AMERICA,	)
Respondent-Appellee	) Allen Sharp,
	) Judge.

On its own motion, this court has carefully reviewed the final order of the district court, the record on appeal, and all materials submitted by appellant in related Appeals Nos. 01-1358 and 01-1422. Based on this review the court has determined that any issues which could be raise are insubstantial and that further briefing would not be helpful to the court's consideration of the issues. See *Taylor v. City of New Albany*, 979 F.2d 87 (7th Cir. 1992); *Mather v. Village of Mundelein*, 869 F.2d 356, 357 (7th Cir. 1989) (per curiam)

(court may decide case on motions papers and record where briefing would be waste of time and no member of the panel desires briefing or argument).

Accordingly, **IT IS ORDERED** that the judgment of the district court is summarily **AFFIRMED.**

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Case No. 01-1422
United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Decided March 12, 2001

Before

Hon. WILLIAM J. BAUER, *Circuit Judge*

Hon. ILANA DIAMOND ROVNER, *Circuit Judge*

Hon. TERENCE T. EVANS, *Circuit Judge*

IN RE:	) Application for Writ of Mandamus
JOHN KOJO MENSAH,	)Northern District of Indiana,
	)South Bend
Petitioner	) Division.
	)
	) No. 00 M 19
	)
	) Allen Sharp,
	) Judge.
	)

The following are before the court:

1. **MOTION TO AMEND PETITIONER'S STATEMENT OF RELIEF SOUGHT**, filled on March 8, 2001, by the pro se petitioner.

2. **PETITIONER FOR WRIT OF MANDAMUS AND/OR PROHIBITION,** filed on February 22, 2001, by the pro se petitioner.

IT IS ORDERED that # 1 is **GRANTED** and # 2 is **DENIED.**

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Case No. 01-1358
United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

March 9, 2001

Hon. WILLIAM J. BAUER, *Circuit Judge*
Hon. ILANA DIAMOND ROVNER, *Circuit Judge*
Hon. TERENCE T. EVANS, *Circuit Judge*

IN RE:
JOHN KOJO MENSAH,
Petitioner

Application for a Writ of Mandamus
No. 00 M 19, Allen Sharp, Judge

Upon consideration of the **VERIFIED MOTION FOR EX PARTE ORDERS FOR STAY OF APPELLEES' ACTIONS, PRELIMINARY INJUNCTION OR MANDAMUS RELIEF PENDING APPELLATE REVIEW DE NOVO**, filed on February 13, 2001, by pro se petitioner,

IT IS ORDERED that the motion is **DENIED.**

UNITED STATES DISTRICT COURT
Northern District of Indiana
South Bend Division

JOHN KOJO MENSAH,	)	
	)	
Petitioner,	)	
	)	**CAUSE NO.**
v.	)	**3:00 MC-0019AS**
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

ORDER

This matter before the court on petitioner John Kojo Mensah's request for leave to file suit and his petition for settlement conference. Judge Robert E. Miller, Jr., entered an order in John Kojo Mensah v. United States of America, cause No. 3:98cv360RM, finding that Mr. Mensah's submissions violated Fed. R. Civ. P.11 and 28 USC § 1927, imposing sanction in the amount of $100.00, and ordering "John Kojo Mensah not to file any further cases in this district against these defendants based on these facts without prior leave of a judge of this court."

In his request for leave to file suit, Mr. Mensah alleges that agents of the United States engaged in similar activities to those that led Judge Miller to enter his order dismissing 3:98CV360 RM. Mr. Mensah asserts that agents of the Immigration and Naturalization Service and the Central

Intelligence Agency have subjected him to a reign of terror by "around the clock surveillance of stalking him in and out of buildings; use of thermal imaging cameras, electronic listening and tracking devices; phone tapping and intercept; illegal entry, search and seizure; and daily orchestrated acts of horrific inducement for entrapment, injure and harm." These allegations against the United States and its agents, which occurred in Indiana, fall within the "irrational or wholly incredible" category noted in *Denton v. Hernandez*, 504 U.S. 25, 27 (1992), and appear to track closely the allegations that Judge Miller found sanctionable in 3:98cv360 RM. Accordingly, the court now DENIES the petitioner's request for leave to file suit, and DENIES the emergency petition for settlement conference as moot.

IT IS SO ORDERED

DATED: DECEMBER 20, 2000

/s/ ALLEN SHARP
UNITED STATES DISTRICT COURT

CC: Mensah
U.S. Attorney

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JOHN KOJO MENSAH,	)	
Plaintiff	)	**Cause No.**
v.	)	**3:98-CV-360RM**
UNITED STATES OF AMERICA,	)	
Defendants	)	

MEMORANDUM AND ORDER

This the most recent installment is a sense of cases brought by John Kojo Mensah concerning his belief that federal agencies are engaged in sinister activities against him. He alleges that the Central Intelligence Agency and the Immigration and Naturalization Service have orchestrated a "campaign of terror" against him since 1985. Mr. Mensah alleges that these agencies continue to terrorize him with tactics such as arrest-traps, plots of entrapment, acts of inducement, death threats and thermal imaging surveillance. Mr. Mensah seeks preliminary and permanent injunctive relief against the United States enjoining its agents from continuing these activities. The United States has filed a motion asking the court to appoint a guardian ad litem to represent Lucy and Lethia Mensah, Mr. Mensah's children whom he named as additional plaintiffs in this latest case. For reasons that follow, the court denied Mr. Mensah's request for injunctive relief, dismisses the complaint and orders Mr. Mensah to show cause why the court should not impose sanctions.

The complaint alleges the same facts against the same

defendants that were alleged in 97CV159, 98CV62 and 98CV63. In the light of the decision in Mr. Mensah's last case, the current complaint is vexatious, frivolous, duplicative, unfounded and improper. 28 USC § 1927 provides: "Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses and attorneys' fees reasonable incurred because of such conduct." Rule 11 of the Federal Rules of Civil Procedure provides:

By presenting to the court (whether by signing, filing, submitting or later advocating) a pleading, written motion or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances.-

(1) it is not being presented for any improper purpose, such as to harass to to

cause unnecessary delay or needless increase in the cost of litigation;

(2) the claim, defenses and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification or reversal of existing law or establishment or new law;

(3) the allegations and other factual contentions have evidentiary support or, specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery;

Section (c) of Rule 11 authorizes the court to fashion a sanction "sufficient to deter repetition of such conduct" and may include the imposition of monetary fines.

These provisions are self explanatory, as is their apparent application to Mr. Mensah's filing under a new case number a case that the court has already dismissed. Therefore, the court:

1. DISMISSES the complaint (filled July 14, 1998 (docket # 1):

2. DIRECTS the clerk of the court to enter judgment in favor of the defendant; and

3. GRANTS Mr. Mensah 30 days to show cause why the court should not impose sanction for violations of 28 USC § 1927 and Fed. R.Civ.P. 11 and why the court should not order Mr. Mensah to fill no further cases in this court against these defendants based on these facts.

SO ORDERED

ENTERED: August 17, 1998

/s/ Robert L. Miller, Jr., Judge
United States District Court

IN THE MICHIGAN COURT OF APPEALS

ORDER

RE: In Re Lucy & Lethia Mensah, Minors
Docket No. **221369**
L.C. No. **97-0053**

Richard A. Bandstra, Chief Judge, acting under MCR 7.217(A), orders:

The above appeal is DISMISSED for want of prosecution, appellant having failed to ensure the timely filing of the transcript.

A true copy entered and certified by Carl L. Gromek, Chief Clerk, on

June 30, 2000
Date

/s/ Carl L. Bromek
Chief Clerk

STATE OF MICHIGAN
IN THE 45TH JUDICIAL CIRCUIT FOR THE COUNTY OF ST. JOSEPH FAMILY DIVISION

In the Matter of:

LUCY A. MENSAH, DOB: 06-27-92 **File No. 97-53**
LETHIA A. MENSAH, DOB: 02-15-96
_____/

TERMINATION OPINION/COURT ORDER

A Petition seeking Family Court Jurisdiction was filed on October 31, 1997. The Petition alleged that the Mother of the children, Lucy and Lethia, died as a result of a car/train accident on October 28, 1997, and that at the time of her death she had temporary custody with supervised visitation only for the father, John Mensah. The supervised visitation has been ordered because of alleged delusional thinking by the father. the Petition further alleged that there was concern that the father, the respondent, would secret the children to the country of Ghana, the place of the Father's origin, and that the children faced a substantial risk of harm if placed with the father because of his delusional thinking. A jury trial was held on January 9, 1998. as a result of the jury verdict, the court took jurisdiction of the two minor children. The father was represented by counsel at the trial and also had benefit of a Guardian ad Litem. Subsequent to the trial, Judge Shumaker ordered that the father, John Mensah, obtain psychiatric evaluation by Dr. Wilson of Community Mental Health to asses the Father's present mental Health status and to asses the

risk of harm if any, he presented to his children. This same order was continued in the Order of Disposition dated February 13, 1998. At the disposition, the attorney for Mr. Mensah was allowed to withdraw due to the fact that Mr. Mensah had sued his attorney. Mr. Tomlinson, the Guardian ad Litem, was also allowed to withdraw for the same reason.

Since the disposition, Respondent has represented himself. The first Review Hearing, post-dispositional, was held on April 30, 1998 and at the time of the Review Hearing, the judge continued the same Order fro psychological evaluation and the Respondent had not obtained the psychological evaluation and, in fact, refused to submit to the same. A second Review Hearing was held on July 30, 1998. Judge Schumaker continued his previous Orders and the Respondent still refused to obtain a psychological.

The Family Independence Agency filed a Petition for Termination on September 4, 1998. the legal basis for termination alleged was MCLA 712A. 19b(3)(C)(i). MSA

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27.3178(598.19b)(3)(C).

A termination trial was scheduled, but due to a law suit filed by the Respondent, Mr. Mensah, the termination trial was not held. a third Review Hearing was held on October 29, 1998. Judge Schumaker continued the order for psychological evaluation and appropriate treatment, and the Respondent continued to refuse to do the same. A Permanency Planning Hearing was held on February 11, 1999, within the statutory time limits. By this time, Mr. Mensah had filed a second Motion to disqualify Judge Schumaker as a result of the Motion, the Permanency Planning Hearing was adjourned and

Judge Schumaker issued a written opinion denying the request. The matter was again scheduled for a termination trial and the Respondent Father was personally notified of said termination trial. Judge Schumaker disqualified himself on June 29,1999 by written Motion and Affidavit and Order setting forth the basis of his disqualification. This Judge was appointed by State Court Administrative office to hear this matter and the termination trial was held on July 9, 1999.

Three witnesses testified at the termination trial for the Petitioner: Linda Skipski, Case worker for FIA; Christine Flagler, case Worker for Bethany Christian Services; and deputy Brian Lavalle of the St Joseph County sheriff's Department.

Ms Skipski testified that the minor children had remained in placement since the initial filing of the Petition for court jurisdiction. Ms Skipski also testified the father refused throughout the matter to sign a Parent-Agency Treatment Plan and further refused to obtain a psychological as ordered by Judge Schumaker. She further testified that since she was assigned the case as the Case Worker, which was just shortly before disposition, the Father had only visited the children on two occasions. After the second visitation, the Father made contact by fax to Ms Skipski indicating that he would no longer visit under the rules of FIA during visitation prohibiting the use of food or beverage in the visitation room. Ms Skipski further testified that from the date of the adjudication to the date of the termination trial, the father refused to participate in psychological evaluation. Ms. Skipski further testified that termination was appropriate and that both children were in need of permanency and that Lucy, oldest child, had expressed fears of residing with the father. Also, note the Permanency Planning Hearing report which is part of the court file in this

matter. That report specifically at pages 2 and 3 indicates that the father, John Mensah, received the following services:

1. Psychiatric evaluation was offered and the Court-ordered. The Respondent refused to attend said evaluation indicating it was too dangerous for him to so.

2. Supervised visitation was offered with the daughters. The Respondent refused visitation from 12/97 until a two-hour visit on 9/9/98. The Respondent has had no further visitation because he has refused visitation.

3. Parenting classes were offered and the Respondent was referred. The Respondent attended one class and did not attend the rest of the sessions.

Throughout this matter, the court exhibits further indicate that FIA consistently advised Mr. Mensah that termination would be sought if he did not begin services. See, Page 6 of the Permanency Planning Hearing report.

Christine Flagler also testified at the termination trial. Ms Flagler is an adoption worker employed at Bethany Christian Services. She opined that it was in the best interest of the children to terminate the father's rights. Although she did not talk to Mr. Mensah, she did have the information referred to her from FIA in regards to Mr. Mensah. Ms. Flagler testified that she considered the children's issues of attachment, issues of stability and emotional ties. Ms. Flagler opined that termination was in the best interest of the children. The Minor, Lucy Mensah, had exhibited fear and anxiety as a result of early exposure such as fighting between her and mother, and could discuss the father's delusional thinking. The minor, Lethia Mensah, had spent over one-third of her life in foster

care and had demonstrated attachment and bonding to the foster care parents.

Deputy Brian Lavalle also testified. Deputy Lavalle testified that the Respondent, Mr. Mensah, had been picking the courthouse and was passing out information to citizens and was passing out a letter that was directed to the Hon. Judge Marianne Battani, Chairman of the Judicial Tenure Commission and Richard S. Bearup, former Ombudsman for the Office of Children's Ombudsman. The purpose of the admission submitted in this exhibit was that the Respondent is still suffering from delusional thinking. The letter directed to the Judicial Tenure Commission, written by Mr. Mensah, states that the Immigration Naturalization Service (INS) orchestrated the death of Respondent's wife and induced the coroner, funeral home, and other individuals including the police to cover up the wife's death. He states, "With the consent of my wife, agents put her under heavy anesthesia (sic) and glued a sculptured image of her face on her forehead, sprayed makeup on it and passed oxygen tubes into her nose underneath the mask. They fed her intravenously at night while laying in the casket." It was the position of the Respondent on the basis of the letter that his wife is now in the witness protection program and the Death Certificate is a fake Death Certificate entered by the State of Indiana.

The Respondent also presented witnesses. Although he did not call himself, he presented Dennis Devore, St. Joseph County Juvenile Court Administrator-Referee. Mr. DeVore testified that the Respondent agreed to waive preliminary hearing and also agreed to obtain a psychological, but unfortunately changed his mind.

Sheila Schill also testified she is a Protective Service Worker.

Her testimony related to pre-adjudicative matters and a record was made, but no testimony was elicited that dealt with dispositional issues.

Mary Sue Neal also testified. Ms Neal is the sister of the mother of the children. Ms Neal testified to pre-adjudicative issues, but did not provide any evidence that death with dispositional issues.

Bertha Wright also testified. Ms Wright was the former foster care mother of the deceased wife of the Respondent. Again Mr. Mensah attempted to elicit testimony from Ms. Wright that was pre-adjudicative. Although the testimony elicited did not deal with dispositional issues, the questions attempted did focus on Mr. Mensah's paranoid beliefs that his deceased wife and sister-in-law whispered and laughed together.

Ruth Lane, the great-grandmother and foster mother, testified. Again her elicited testimony dealt only with pre-adjudicative issues.

In essence, the Respondent had attempted to attack the jurisdictional basis of the Court by attempting to elicit testimony that he was not neglectful and that his deceased wife and/or her family was. Although the Respondent was allowed to make a record, this testimony was not helpful for termination purposes. The gravamen of Mr. Mensah's argument was that there was no evidence of neglect and because there was no evidence of neglect the court cannot terminate.

This Court is required to make findings of fact and conclusions of law. Michigan Court Rule 5.974(F) provides the following:

"If a parental rights of the respondent over the child are not terminated at the initial disposition hearing, and the child is in foster care in the temporary custody of the court, the court following a dispositional review hearing of a permanency planning hearing under MCR 5.973 may take an action on a supplemental petition that seeks to terminate the parental rights of the respondent over the child on the basis of one or more of the grounds listed in MCLA 712A. 19(B); MSA 27.3178(598.19B)."

MCR 5.974 also provides that the evidence at the hearing may be evidence that is relevant and material, including oral and written reports that may have been received or relied upon by the Court and that the burden of proof is clear and convincing evidence that one or more of the grounds exist pursuant to the statute. Further, if the court finds that the Petitioner has established by clear and convincing evidence that termination is warranted, the Court shall terminate unless the Court finds that termination is clearly not in the best interest of the minor children. MCR 5.974.

This court finds that the petitioner has met its burden of proof based upon relevant and material evidence that proved the requisite factual basis that the parental unfitness existed, and continues to exist, and will continue to exist. This court finds that Petitioner has met its burden pursuant to 19B(3)(C), failure to correct condition. Under this specific ground, Petitioner must show that the parent was a respondent in a proceedings brought over 180 days since the initial disposition order and the court finds: A.) that the condition that led to adjudication continues to exist; b.) that the parent received recommendation to rectify the condition and it has not been rectified after notice, hearing, and a reasonable opportunity to rectify the condition; and c.) that there is no reasonable time

considering the age of the child. The Court took jurisdiction based upon a petition that stated the Father's delusional thinking put the children at substantial risk of harm. The Court ordered that the Father obtain a psychological and follow any recommended treatment as a result of the psychological. The Father refused to obtain the psychological and, in fact, even at termination trial argued that it was everyone's else's delusional thinking, not his. He further argued that the Court had not established neglect and abuse. Mr. Mensah fails to recognize that there was a jury verdict in this matter. As Mr. Kleidon, Attorney for the Minors, indicated in his closing argument, this Court (Judge Schumaker) bent over backwards to get the Father to obtain a psychological throughout the matter. the court offered an opportunity to the Respondent that he could even pick his own psychiatrist. The Respondent refused treatment throughout this matter. There is evidence that the Respondent is still suffering from delusional thinking. See, for instance, the letter directed to the Judicial Tenure Commission as previously outlined in this Opinion.

These children have been in care since October of 1997. Given their tender ages, Lucy is 6 and Lethia is 3, coupled with the length of time that it would take to get the Father to address the mental health issue here and his current refusal to address the issue, there is no reasonable likelihood that the conditions will be rectified within a reasonable time. Although the result is extremely sad in that its apparent that Mr. Mensah has the intelligence and ability to effectively parent if he received treatment, he refuses to do the same.

In addition, although not specifically pled by the Petitioner, the Petitioner met their burden by clear and convincing evidence pursuant to 19B(3)(g) that regardless of intent or culpability, the parent failed to provide proper care or custody for the

children and there is no reasonable expectation that the parent will be able to provide proper care or custody for the children and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the age of the child. The record is replete with examples of Mr. Mensah's delusional thinking including beliefs that the INS had bugged his house, had been involved in a conspiracy with court staff, the INS had used thermal imaging cameras and bugging devices to inflict mental and emotional distress on him and his family. Mr. Mensah refused treatment to deal with these issues and therefore the Petitioner has met its burden.

MCLA 712A. 19b(5); MSA 27.3178(598.19b)(5) further provides that this Court shall terminate parental rights if the Court finds the grounds for termination, unless termination is clearly not in the child's best interest. In re: Hamlet, 225 Mich App 505; 571 NW2d 750 (19197). Thus, the termination of parental rights statute creates a mandatory presumption that can only be rebutted by showing that termination is clearly not in the child's best interest. the testimony before the Court is that it is in the best interest of the children to terminate. See, for instance, the Lane/Mensah Family Assessment prepared by Bethany Christian Services and authored by Christine Flagler and psychological evaluations conducted by Dr. Schirado in regards to the Minor, Lucy Mensah. These are young children who have been placed in care since October of 1997. It is clear from the facts of this case that these children need permanency and a proper environment where they can be consistently cared for and safely parented. see, also In re: Hall-Smith, 222 Mich App 470; 564 NW 2d 156 (1977).

Therefore, based upon the above, it is the ORDER OF THIS COURT that the parental rights of John Mensah are hereby

terminated. IT IS FURTHER ORDERED that the children are placed in the permanent custody of this Court. Additional efforts for reunification of the children with the parent shall not be made. The children are committed to the Michigan Children's Institute of the Family Independence Agency under MCLA 400.203 for adoptive planning, supervision, care and placement; and, IT IS FURTHER ORDERED that the Director of the Family Independence Agency is appointed Special Guardian to receive any benefits now due or to become due the children from the Government of the United States.

Respondent Father is advised that he has a right to appeal this Court Order as set forth in the attached Advice of Rights which is incorporated in this Court Opinion by reference.

/s/ HON. SUSAN L. DOBRICH, P32783
Family Court Judge
Acting in St. Joseph County

DATED: June 16, 1999

December 20, 2000

Honorable Doris Meissner
Immigration and Naturalization Service, (INS)
425 Eye Street, NW--Chester A. Arthur Bldg.
Washington, D.C. 20536

Dear Honorable Commissioner:

Immigration Nitemare: Final Petition For Relief

I am writing to you for the fourth time in addition to several copies of law suits submitted to you regarding what is now a 15 year campaign of terror and rights deprivation sanctioned against me and my children by your agency. Covert acts directed against us by the INS in collaboration with the CIA.

This horrific campaign has cost us tremendously as clearly detailed to you in previous petitions submitted to your office. These activities have cost my two little girls the "death" of their mother; death which was orchestrated by your covert agents in order to place her in federal witness protection program while your field agents reaped millions of dollars in insurance fraud money. Three years have past since these and other horrendous acts were carried out against us. Meanwhile my minor daughters continue to be held in Michigan under the covert inducement of your agents by the use of INS induced fraudulent judicial proceedings. these acts, in addition to irreparable emotional and mental injuries to me and my children has further caused me physical injury while your

agents deprive me of any access to suitable employment. the health and economic cost, years of anguish, devastation and horror are irreparable. Its left me to result to applying for disability while your covert agents continue to work tenaciously to prevent any benefit from the federally mandated entitlement to be provided to me.

This is the world's greatest democratic government yet you permit them to be so out of control to operate without effective guidelines. That leaves every human being on the face of the earth at their mercy including you. I mean yourself as a future private citizen and your children and other family members. What we do as people to protect others is invariably what we do to protect our own children. better put, we reap what we sow. It is easy to ignore great inhuman acts directed at others under the mantle of governmental power. This is what makes the Adolf Hitlers of the world great in their own mind, while other human beings live the horror of their deeds.

I need not go any further because you enough about the harm caused to me and my children these 15 years. You read facts noted in over 7 published petitions filed at the United States Supreme Court; copies were served to you. It is clear that the federal intelligence system is used to protect your personal career interest whenever necessary but it defies any human conscience to give your operatives and their counterparts at the CIA a blank check to continue for 15 years to terrorize private citizens and foreign nations even long after your agents have made their illegal financial gains on the harm caused to us, and then continue to induce federal and state judges to deny us relief, while you sit there and do nothing despite our pleas to you.

My final petition to you is please do not forget me and my

children and the continue harm caused to us. The change in political administration may mean a shift in leadership for the agency, who knows; how can you bear the guilt of the horror caused to us on your conscience when you leave office? Even for your own personal well-being, this is grossly irresponsible. Please let my children go, give use the closure we deserve from this 15 years of INS and CIA orchestrated terror. The mere order of cessation by you will be enough to bring a closure to such years of tremendous harm and injury caused to me and my children.

With the back injury caused to me by your agents, I am clearly on the verge of homelessness and continued deprivation from getting medical treatment. Please do not forget that we are humans just like you. ever wonder how gratifying it will be to know you have done what is right by granting appropriate relief to me and my children and the other countless victims pursued by your agency around the globe?

Respectfully submitted,

John Kojo Mensah
816 1/2 Fulton Street
Elkhart, IN 46514
(219) 296-0616